

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GEORTO, INC.,)	
Plaintiff,)	
)	
v.)	
)	
WILLIAM GATEMAN, INDIVIDUALLY)	CIVIL ACTION NO. 04-11730 NG
and as TRUSTEE OF 200 UNION)	
STREET REALTY TRUST,)	
Defendant and)	
Third Party Plaintiff,)	
)	
v.)	
)	
ROBERTS CORPORATION,)	
Third Party)	
Defendant.)	

PLAINTIFF'S MOTION TO COMPEL
DEFENDANT WILLIAM GATEMAN TO PRODUCE DOCUMENTS

Plaintiff Georto, Inc. ("Georto"), pursuant to Fed. R. Civ. P. 34(b) and 37(a), moves that this Court enter an order compelling Defendant William Gateman, Individually and as Trustee of 200 Union Street Realty Trust ("Gateman"), to produce within ten days of such order the following documents:

1. **schedule(s) of beneficial interests**, including any amendments, with respect to the 200 Union Street Realty Trust (a nominee trust that sold the subject property to Georto and whose declaration of trust provides that the trustee shall act at the direction of the beneficiaries) [responsive to Document Requests nos. 1, 2];
2. **documents regarding any fill** delivered to and used at the subject property, specifically including documents identifying the source and type of any fill used [responsive to Georto's requests numbered 15, 16, among others];
3. **invoices and cancelled checks** concerning services in connection with the demolition of the building at the subject property (specifically including demolition, any removal of demolition debris / solid waste from the property, and filling and grading activities) [responsive to Document Requests nos. 11, 13 - 17, 26, 29, 35, 37, 39, among others];

4. **telephone bills** reflecting the dates and times of communications between Gateman and any of Georto, Roberts, Goldman Environmental Consultants, Inc., Envirotech laboratories, and Clayton Collins [responsive to request numbered 21]
5. **documents concerning distributions** from the 200 Union Street Realty Trust after August, 2001 (the date of the fire), including but not limited to bank account and brokerage statements, checks, accounting records, and disbursement/distribution correspondence, and specifically including documents concerning distributions made after the filing of the Complaint in this action [responsive to Document Requests no. 2, among others];
6. any other responsive documents not yet produced, including but not limited to **Gateman's emails** [responsive to Georto's requests numbered 21, 40, among others].

Georto also seeks to compel Gateman to produce a privilege log to the extent that Gateman has withheld any documents from production on the grounds of attorney client privilege, the work product doctrine, or any other privilege.

In support of its request, Georto submits its Memorandum in support of Motion to Compel Production of Documents and the Affidavit of Dale Kerester. As is set forth in more detail in Georto's Memorandum, the documents are responsive to Georto's First Request for Production of Documents (served on June 24, 2005), the documents are relevant to the parties' claims and/or defenses, Gateman did not object to the production of such documents and instead has repeatedly agreed to produce such documents (as confirmed by Gateman's counsel at the status conference before the Court on October 17, 2005), and Gateman has failed to produce such documents notwithstanding repeated requests from Georto.

WHEREFORE, Plaintiff Georto, Inc. requests that this Honorable Court issue an order: 1) compelling Defendant William Gateman, Individually and as Trustee Of 200

Union Street Realty Trust, to produce the documents identified above within ten days;
2) compelling Defendant to produce a privilege log to the extent that any documents have been withheld from production on the grounds of attorney client privilege, the work product doctrine, or any other privilege; and 3) awarding to Plaintiff its attorney's fees and costs in making this motion.

PLAINTIFF GEORTO, INC.

By its attorney,

/s/ Dale Kerester

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Certificate of Compliance with Local Rule 7.1 and 37.1

I, Dale C. Kerester, attorney for Plaintiff Georto, Inc. in the above-referenced matter, hereby certify that the provisions of Local Rule 7.1 and 37.1 have been complied with and that I have conferred with Defendant's attorney on repeated occasions and have attempted in good faith to resolve or narrow the issues presented in this motion. I have stated with particularity the information required by Local Rule 37.1 in Georto's Memorandum in Support of Motion to Compel Production of Documents and in the Affidavit of Dale Kerester.

/s/ Dale Kerester

Dale Kerester

Dated: January 24, 2006

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 24, 2006.

/s/ Dale Kerester

Dale Kerester